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In re Application of
Jose Sevilleja Perez : DECISION ON PETITION TO
Application No. 10/551,243 : REVIEW RESTRICTION
Filed: September 28, 2005 : REQUIREMENT UNDER
For: ELEVATOR ROLLER GUIDE : 37 C.F.R. 1.144

This is a decision on the petition filed January 12, 2007 under 37 C.F.R. 1.181. Since this petition is requesting the review of a restriction requirement, its being treated as a petition filed under 37 C.F.R. 1.144. The delay in treating this petition is sincerely regretted.

The petition is **GRANTED**.

A review of the file record reveals that a written restriction requirement was mailed on August 10, 2006. In a response filed September 11, 2006, applicant elected with traverse. An Office action on the merits was mailed on October 12, 2006 wherein the Examiner responded to the traverse and maintained the requirement. Applicant has filed this petition in response, along with an amendment to all the claims including the withdrawn claims.

Applicant argues that since the instant application is a national filing from a PCT application, and since there exists at least one common or corresponding technical feature in the independent claims, the restriction requirement is improper. It is further argued that the election of species should be withdrawn as there is no undue burden on the examiner to consider both embodiments.

Applicant's arguments are found persuasive. The restriction and election of species requirements are no longer appropriate for all the reasons set forth by applicant in the petition. Further, the amendment filed concurrently with the petition presents independent claims 10 and 20 which are drawn to a single inventive concept.

Accordingly, the petition is granted. The restriction and election of species requirement are hereby withdrawn.

The application will be forwarded to the Examiner to act on as his next available case in timely fashion.

Any questions regarding this decision should be directed to Peter M. Cuomo,
Supervisory Patent Examiner, Art Unit 3654 at 571-272-6856.

Summary: *Petition Granted*

Katherine Matecki

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